

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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MAGALY E. HERIVEAUX,

Plaintiff,

-against-

PENTAGON,

Defendant.
----- X

VITALIANO, D.J.

FILED
IN CLERK'S OFFICE
US DISTRICT COURT E.D.N.Y.
★ MAY 25 2018 ★

*Revised
5/25/18
(S)*

BROOKLYN OFFICE

MEMORANDUM & ORDER

18-MC-622 (ENV) (LB)

After *pro se* plaintiff Magaly Heriveaux's nonstop series of duplicative, frivolous and incomprehensible complaints, by its order of January 15, 2016, the Court prohibited her from filing any further actions in this judicial district unless she either (1) provided pre-payment of the filing fee, in accordance with 28 U.S.C. § 1914, or (2) first obtained judicial permission for her proposed filing and otherwise met the standards for *in forma pauperis* ("IFP") status. See *Heriveaux v. Fed. Bureau of Investigation*, No. 15 Civ. 4999 (ENV) (LB) (E.D.N.Y. Jan. 15, 2016) (ECF No. 12 at 4). On February 23, 2018, Heriveaux filed the instant motions for leave to file a new complaint and to proceed IFP, as well as several Affidavits/Affirmations. See Mot. for Leave to File, ECF No. 2; Mot. to Proceed IFP, ECF No. 3.¹

Discussion

As with her thirteen prior complaints,² the current proposed pleading is objectively nonsensical and frivolous. See Compl., ECF No. 1 ("These Haitian-American representatives

¹ The Clerk of Court properly filed these submissions on the miscellaneous docket.

² See *Heriveaux v. FEMA*, No. 15 Civ. 2326 (ENV) (LB) (E.D.N.Y. May 10, 2015) (ECF No. 5) (dismissing the complaint as frivolous); *Heriveaux v. Sec'y of Defense*, No. 15 Civ. 340 (ENV) (LB) (E.D.N.Y. May 11, 2015) (ECF No. 10) (same); *Heriveaux v. Fed. Gov't*, No. 14 Civ. 7105 (ENV) (LB) (E.D.N.Y. May 12, 2015) (ECF No. 11) (same); *Heriveaux v. Berrien County*, No. 15 Civ. 4138 (ENV) (LB) (E.D.N.Y. Aug. 3, 2015) (ECF No. 4) (same); *Heriveaux*

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were also informed that the Criminal Investigation Command can also be contacted to remove any Militia that's engaging in any wrongdoings; so they could be court-martialed, due to their maliciousness.”). Even if these allegations make sense to Heriveaux, her subjective understandings cannot save the objectively nonsensical pleadings she proposes from rejection. As a consequence, the submissions are not to be filed on the active civil docket.

Conclusion

In line with the foregoing, Heriveaux’s motion for leave to file a new complaint as proposed is denied. Her motion to proceed IFP is denied as moot. The Court’s January 15, 2016 order, prohibiting Heriveaux from filing any further actions in this district unless she (1) provides pre-payment of the filing fee in accordance with 28 U.S.C. § 1914, or (2) first obtains judicial permission for her proposed filing and otherwise meets the standards for IFP status, remains in full force and effect.

Nothing in this Order shall be construed to prohibit Heriveaux from filing an appeal. Nevertheless, the Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that any such appeal from this Order would not be taken in good faith, and, therefore, IFP status is denied for purpose of an

v. Fed. Bureau of Investigation, No. 15 Civ. 4999 (ENV) (LB) (E.D.N.Y. Oct. 30, 2015) (ECF No. 5) (same); *Heriveaux v. Sec’y of Defense*, No. 16 Civ. 178 (ENV) (LB) (E.D.N.Y. Jan. 15, 2016) (docket order) (same); *Heriveaux v. Nat’l Sec. Agency*, No. 16 MC 836 (ENV) (E.D.N.Y. May 5, 2016) (ECF No. 4) (same); *Heriveaux v. The Pentagon*, No. 17 MC 218 (ENV) (E.D.N.Y. Jan. 30, 2017) (ECF No. 4) (denying plaintiff’s motion for leave to file a complaint because the proposed complaint was nonsensical and frivolous); *Heriveaux v. Fed. Bureau of Investigation*, No. 17 MC 1221 (ENV) (LB) (E.D.N.Y. Apr. 30, 2017) (ECF No. 3) (same); *Heriveaux v. Fed. Gov’t*, No. 17 MC 1766 (ENV) (LB) (E.D.N.Y. July 4, 2017) (ECF No. 4) (same); *Heriveaux v. Fed. Gov’t*, No. 17 MC 2322 (ENV) (LB) (E.D.N.Y. Sept. 9, 2017) (ECF No. 9) (same); *Heriveaux v. United States Armed Forces*, 17 MC 2887 (ENV) (LB) (E.D.N.Y. Nov. 11, 2017) (same); *Heriveaux v. Nat’l Sec. Agency*, 18 MC 00548 (ENV) (LB) (E.D.N.Y. Apr. 22, 2018).

appeal. *Coppedge v. United States*, 369 U.S. 438, 444-45, 82 S. Ct. 917, 920-21, 8 L. Ed. 2d 21 (1962).

The Clerk of Court is directed to mail a copy of this Order to plaintiff and to close this docket for administrative purposes.

So Ordered.

Dated: Brooklyn, New York
May 18, 2018

/s/ USDJ ERIC N. VITALIANO

ERIC N. VITALIANO
United States District Judge